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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,634	12/21/2001	John K. Edwards	112056-0002	1504
24267	7590	12/30/2004	EXAMINER	
CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210			KIM, HONG CHONG	
			ART UNIT	PAPER NUMBER
			2186	

DATE MAILED: 12/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

10/027,634

Applicant(s)

EDWARDS ET AL.

Examiner

Hong C Kim

Art Unit

2186

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-25 is/are allowed.
- 6) ☒ Claim(s) 26-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Detailed Action

1. Claims 1-38 are presented for examination. This office action is in response to the amendment filed on 9/10/04.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 26 and 38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. i.e., electromagnetic signals propagating on a computer network.

Claims to electromagnetic signals propagating on a computer network per se have been held to be non-statutory subject matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 27, 31, 33, 37 and 38 are rejected under 35 U.S.C. 102(a) as being anticipated by Microsoft Windows 95 Resource Kit, Microsoft Press, 1995, pp 656-658.

As to claim 27, Microsoft discloses the invention as claimed. Microsoft discloses

a method for defragmenting data blocks on disks of a computer configured to implement a file system that logically organizes the blocks as a file on the disks, comprising: determining a current layout of the data blocks on the disks, and determining a fragmentation of the current layout; estimating a fragmentation of a potential new layout of the data blocks on the disks; and relocating the data blocks on the disks if the potential new layout has less fragmentation than the current layout (page 657 middle).

As to claim 31, Microsoft discloses the invention as claimed. Microsoft discloses a system adapted to defragment data blocks on disks of a computer configured to implement a file system that logically organizes the blocks as a file on the disks, comprising: a scanner to determine a current layout of the data blocks on the disks, and to estimate a potential new layout of the data blocks on the disks; and a write allocator to relocate the data blocks on the disks if the potential new layout improves fragmentation of the current layout (page 657 middle).

As to claim 33, Microsoft discloses the invention as claimed. Microsoft discloses an apparatus for defragmenting data blocks on disks of a computer configured to implement a file system that logically organizes the blocks as a file on the disks, comprising: means for determining a current layout of the data blocks on the disks, a fragmentation of the current layout; means for estimating a fragmentation of a potential new layout of the data blocks on the disks; and means for relocating the data blocks on

the disks if the potential new layout has less fragmentation then the current layout (page 657 middle).

As to claim 37, Microsoft discloses the invention as claimed. Microsoft discloses a computer readable medium containing executable program instructions for defragmenting data blocks on disks of a computer configured to implement a file system that logically organizes the blocks as a file on the disks, the executable program instructions comprising program instructions for: determining a current layout of the data blocks on the disks, and determining a fragmentation of the current layout; estimating a fragmentation of a potential new layout of the data blocks on the disks; and relocating the data blocks on the disks if the potential new layout has less fragmentation then the current layout (page 657 middle)

As to claim 38, Microsoft discloses the invention as claimed. Microsoft discloses Electromagnetic signals propagating on a computer network, comprising: said electromagnetic signals carrying instructions for execution on a processor for the practice of the method of, determining a current layout of the data blocks on the disks, and determining a fragmentation of the current layout; estimating a fragmentation of a potential new layout of the data blocks on the disks; and relocating the data blocks on the disks if the potential new layout has less fragmentation then the current layout (page 657 middle).

Claim Rejections - 35 USC ' 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 28, 29, 30, 32, 34, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Microsoft Windows 95 Resource Kit, Microsoft Press, 1995, pp 656-658 in view of Capps U.S. Patent 6,397,311.

As to claims 28, 29, 30, 32, 34, 35, and 36, Microsoft discloses the invention as claimed above. However, Microsoft does not specifically disclose indirect blocks having a plurality of pointers.

Capps discloses indirect blocks having a plurality of pointers (Fig. 2 and col. 6 lines 17-20) for the purpose of providing capability of storing an effective memory location anywhere in the memory.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate indirect blocks having a plurality of pointers as shown in Capps into the invention of Microsoft for the advantages stated above.

Allowabl Subject Matter

5. Claims 1-25 are allowed.

Claim 26 would be allowable if rewritten or amended to overcome the 101 rejection.

Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached PTO-892.

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

2. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

3. When responding to the office action, Applicant is advised to clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections. See 37 C.F.R. ' 1.111(c).

4. When responding to the office action, Applicants are advised to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist examiner to locate the appropriate paragraphs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hong C Kim whose telephone number is 571-272-4181. The examiner can normally be reached on M-F 9:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt M Kim can be reached on 571-272-4182. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:


Application/Control Number: 10/027,634
Art Unit: 2186

Page 8

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to TC-2100:
(703) 872-9306

Hand-delivered responses should be brought to Crystal Park II, 2121
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

HK 
Primary Patent Examiner
December 26, 2004